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*Anna P. Spates*  
SECRETARY OF THE COUNTY COUNCIL FOR  
MONTGOMERY COUNTY, MARYLAND

Bill no. 71-81, "Collective  
Bargaining for Police Officers  
Draft no. & Date: 1-10/22/81

Introduced: Nov. 3, 1981

Expiration Date: May 3, 1983

Enacted: \_\_\_\_\_

COUNTY COUNCIL

FOR MONTGOMERY COUNTY, MARYLAND

November Legislative Session 1981

By: Council President at the request of the  
County Executive

AN ACT to amend Chapter 33, title "Personnel" of the Montgomery County Code 1972, as amended, by amending Subsection 33-63(c) of Section 33-63, title "Definitions", of Article IV, title "Employer - Employee Relations" to provide that police department employees who are represented by a certified employee organization pursuant to Article V of this Chapter shall not be considered an employee under Article IV of this Chapter; by amending Section 33-74, title "Cost of Living Adjustment" to provide that this section shall not apply to an employee of the police department who is represented by a certified employee organization pursuant to Article V of this Chapter; and by adding a new Article V, title "Police Labor Relations", Sections 33-75 through 33-85, to provide for a policy statement, definitions to be used in the Article, creation of a permanent umpire in order to administer and implement certain provisions of the Article, certain employee rights, the selection, certification, and decertification procedures, subjects

which would be appropriate for collective bargaining,  
subjects which would not be appropriate for collective  
bargaining, impasse procedures, prohibited employer  
and employee practices, certain provisions concerning  
strikes and lockouts, use of official time of employees,  
and the effect of prior enactments.

Be It Enacted by the County Council for Montgomery County, Maryland  
that -

1           Sec. 1. Subsection 33-63(c) of Section 33-63, title  
2       "Definitions" of Article IV, title "Employer-Employee Relations"  
3       of Chapter 33, title "Personnel", of the Montgomery County Code  
4       1972, as amended, is hereby amended, to read as follows:

5           Sec. 33-63. Definitions.

6                               \* \* \*

7           (c) Employee. Any county merit system employee working  
8       on a continuous full-time, career or part-time, career basis,  
9       eligible to be included in a unit of recognition except for the  
10      following:

- 11           (1) Confidential aides to elected officials;  
12           (2) All non-merit system employees;  
13           (3) All heads of principal departments, offices  
14                 and agencies;  
15           (4) Deputy or assistant department heads;  
16           (5) Employees providing direct staff or administra-  
17                 tive support to the director of the department,  
18                 or deputy or assistant directors within the  
19                 director's immediate office;  
20           (6) Employees who report directly to or whose  
21                 immediate supervisor is the county executive,  
22                 county council, county council members or  
23                 the chief administrative officer and the  
24                 principal aides to the foregoing:

- 1 (7) Employees of the office of the county attorney;  
2 (8) Employees of the office of budget and research;  
3 (9) Employees of the office of employee relations;  
4 (10) Employees of the personnel office;  
5 (11) Employees of the personnel board;  
6 (12) Heads of the following constituent offices,  
7 divisions and sections in the department of  
8 transportation existing at the time of  
9 enactment of this bill and positions carrying  
10 a similar degree of personnel management  
11 responsibilities in other departments and  
12 offices as determined by the chief administrative  
13 officer:

14 Director's office, office of the right-of-  
15 way acquisition, office of administrative  
16 services, office of transportation planning,  
17 division of transportation engineering, sub-  
18 division development section, design section,  
19 construction section, division of traffic  
20 engineering, traffic planning and survey section,  
21 traffic operations section, division of  
22 operations, TESS Minibus, highway maintenance  
23 section, equipment section and division of  
24 parking lot districts.

- 25 (13) An employee of the police department, as defined  
26 in Section 33-76 of this Chapter, who is  
27 represented by a certified employee organization  
28 pursuant to the provisions of Article V, title  
29 "Police Labor Relations" of this Chapter.

30 Sec. 2. Section 33-74, title "Cost of Living Adjustment",  
31 of Article IV, title "Employer - Employee Relations", of  
32 Chapter 33, title "Personnel" of the Montgomery County Code 1972,

1 as amended, is hereby amended, by adding a new Subsection (c),  
2 to read as follows:

3 Sec. 33-74. Cost-of-living adjustment.

4 (a) The county executive shall provide as a part of the  
5 annual recommended operating budget for the county government  
6 sufficient funds to implement the cost of living adjustment  
7 required by this section. The council shall accord one of the  
8 highest priorities to the full funding of the cost-of-living  
9 adjustment, shall fund fully the seventy-five percent of  
10 Consumer Price Index cost-of-living adjustment unless reasons  
11 are given for not doing so, and shall make a finding in the  
12 budget resolution as to the extent to which full funding is  
13 achieved. Unless otherwise provided in the approved budget  
14 resolution which includes a finding that implementation of the  
15 full amount of the adjustment would necessitate substantial  
16 lay-offs of personnel or result in other widespread hardship  
17 to county government employees, the chief administrative  
18 officer shall adjust the uniform salary plan for all classified  
19 employees of the county government beginning the first pay  
20 period on or after July 1 of each year by an amount not less  
21 than seventy-five percent of the change in the Consumer Price  
22 Index for all urban consumers in the Washington, D.C. area,  
23 although pay grades one through four of the uniform salary plan  
24 to which minimum wage and certain seasonal employees are  
25 assigned will be adjusted by changes in the minimum wage rates  
26 and salary surveys to determine the competitiveness of such  
27 salaries. The percentage change shall be based on the latest  
28 published index for the calendar year preceding the fiscal year  
29 in which the adjustment is to be paid.

30 The chief administrative officer may adjust the uniform  
31 salary plan in excess of the base percentage of seventy-five  
32 percent, provided funds are available and approved by the  
33 county council for such purpose.

1 (b) Notwithstanding the provisions in (a) above, for  
2 FY-82 only the following salary controls shall apply:

- 3 1. Salary maxima of grades 5 through 31 will be  
4 adjusted by the full cost-of-living granted  
5 by the County Council.
- 6 2. The salary maximum for grade 40 shall be  
7 \$70,000.00.
- 8 3. The salary maxima for grades 32 through 39 shall  
9 be adjusted by the Chief Administrative Officer  
10 so that the dollar difference between the  
11 salary maxima of grades 31 through 40 is the  
12 same.
- 13 4. The salary for each merit employee in grades 5-31  
14 will be adjusted by the full cost-of-living  
15 granted by the County Council to the extent that  
16 such salary adjustment does not exceed the maximum  
17 of the employee's grade.
- 18 5. The salaries for merit employees in grades 32  
19 through 39 will be adjusted by the full cost-of-  
20 living granted by the County Council only to the  
21 extent that such salary adjustment does not exceed  
22 the maximum of the employee's grade.
- 23 6. The cost-of-living adjustment to the salaries of  
24 non-merit employees shall be determined by the  
25 County Executive but shall not exceed the cost-  
26 of-living granted merit employees.
- 27 7. No employee's salary is to be reduced below  
28 its level as of June 30, 1981 as a result of  
29 implementation of the provisions contained in  
30 paragraphs 1- 6 above.

1        (c) The provisions of this section shall not apply to an  
2        employee of the police department, as defined in Section 33-76  
3        of this Chapter, who is represented by a certified employee  
4        organization pursuant to the provisions of Article V, title  
5        "Police Labor Relations" of this Chapter.

6        Sec. 3. Chapter 33, title "Personnel" of the Montgomery  
7        County Code 1972, as amended, is hereby amended by adding a  
8        new Article V, title "Police Labor Relations", Sections 33-75  
9        through 33-85, to read as follows:

10        ARTICLE V. POLICE LABOR RELATIONS.

11        Sec. 33-75. DECLARATION OF POLICY.

12        It is the public policy of this County, pursuant to  
13        Charter Section 510, enacted as a result of citizen initiative,  
14        and purpose of this Article to promote a harmonious, peaceful,  
15        and cooperative relationship between the County government  
16        and its police employees and to protect the public by assuring,  
17        at all times, the responsive, orderly, and efficient operation  
18        of the police department. Since unresolved disputes in the  
19        police service are injurious to the public and to police  
20        employees as well, adequate means should be provided for  
21        preventing such unresolved disputes and for resolving them  
22        when they occur. To that end, it is in the public interest  
23        that police employees have the opportunity to bargain  
24        collectively through a representative of their choice or to  
25        refrain therefrom; and that any collective bargaining between  
26        the County government and a representative of those police  
27        employees be done in good faith with no interference with the  
28        orderly process of government and furthermore, that the results  
29        of collective bargaining be implemented.

30        It is also recognized however, that police employee  
31        organizations possess substantial means by which they may  
32        initiate governmental actions regarding the wages, hours, and

1 working conditions of employees they represent or seek to  
2 represent. Consequently, in order to preserve the delicate  
3 balance between labor and management in the police service,  
4 the Council hereby declares that collective bargaining may  
5 be voluntarily selected in place of, but not in addition to  
6 existing means of initiating governmental action as to those  
7 subjects which are defined as appropriate for collective  
8 bargaining in this Article.

9 Sec. 33-76. DEFINITIONS.

10 When used in this Article:

11 "Agency Shop" means a provision in a collective  
12 bargaining agreement requiring, as a condition of continued  
13 employment, that bargaining unit employees pay a service  
14 fee not to exceed the monthly membership dues uniformly  
15 and regularly required by the employee organization of  
16 all of its members. An agency shop agreement shall not  
17 require the payment of initiation fees, an assessment, fines  
18 or any other collections or their equivalent, as a condition  
19 of continued employment.

20 To "bargain collectively" means to meet at reasonable  
21 times and places and to negotiate in good faith with respect  
22 to appropriate subjects as set out in subsection 33-80(a)  
23 of this Article.

24 "Employee" means any police officer in the classifica-  
25 tion of Master Police Officer I, Master Police Officer II,  
26 Police Officer I, Police Officer II, Police Officer III,  
27 and Police Officer Candidate, or equivalent non-supervisory  
28 classifications, but not those in the classification of Police  
29 Sergeant or any equivalent or higher classification.

30 "Employer" means the County Executive and his  
31 designees.  
32

1 "Employee Organization" means any organization which  
2 admits to membership employees and which has as a primary purpose  
3 the representation of such employees in collective bargaining,  
4 and includes any person acting as an officer, representative,  
5 or agent of said organization.

6 "Lockout" means any action taken by the employer to  
7 interrupt or prevent the continuity of work properly and  
8 usually performed by the employee for the purpose and with the  
9 intent of either coercing the employees into relinquishing  
10 rights guaranteed by this Article or of bringing economic  
11 pressure on employees for the purpose of securing the agreement  
12 of their certified representative to certain collective  
13 bargaining terms.

14 "Mediation" means an effort by an impartial third  
15 party confidentially to assist in resolving, through  
16 interpretation, suggestion, and advice, a dispute arising out  
17 of collective bargaining between the employer and the  
18 certified representative.

19 "Strike" means the failure to report for duty, or the  
20 absence from one's position, or the stoppage of work, or the  
21 abstinence in whole or in part from the full, faithful, or  
22 proper performance of the duties of employment with the  
23 employer, or deviation from normal or proper work duties or  
24 activities, where any of the preceding are done in a concerted  
25 manner for the purpose of inducing, influencing, or coercing  
26 the employer in the determination, implementation, interpreta-  
27 tion, or administration of terms or conditions of employment  
28 or of the rights, privileges, or obligations of employment  
29 or of the status, recognition or authority of the employee  
30 or an employee organization.

31 Sec. 33-77. PERMANENT UMPIRE.

32 (a) There is hereby created the position of Permanent  
33 Umpire, so as to provide for the effective implementation and



1 administration of Sections 33-79 and 33-82 of this Article  
2 concerning Selection and Certification of Employee  
3 Organization and Prohibited Practices. The Permanent Umpire  
4 shall exercise the following powers and perform the following  
5 duties and functions:

- 6 (1) To adopt, amend, and rescind, from time to  
7 time, such rules, regulations and procedures  
8 for the implementation and administration  
9 of Sections 33-79 and 33-82 as are consistent  
10 with this Article;
- 11 (2) To request from the employer or any employee  
12 organization, and the employer or such  
13 organization may at its discretion provide,  
14 such relevant assistance, service and data  
15 as will enable the Permanent Umpire to  
16 properly carry out his functions;
- 17 (3) To hold hearings and make inquiries, to  
18 administer oaths and affirmations, examine  
19 witnesses and documents, take testimony and  
20 receive evidence, compel by issuance of  
21 subpoenas the attendance of witnesses, not  
22 including elected County officials, and the  
23 production of relevant documents;
- 24 (4) To hold and conduct elections for unit  
25 certification or decertification pursuant to  
26 the provisions of this Article and to issue  
27 said certification or decertification;
- 28 (5) To investigate and attempt to resolve or settle,  
29 as provided in this Article charges of engaging  
30 in prohibited practices. However, if the  
31 employer and a certified representative have  
32 negotiated a valid grievance procedure the  
33 Permanent Umpire must defer to that procedure

1 for the resolution of disputes properly  
2 submissible to the procedure absent a  
3 showing that such deferral will result or has  
4 resulted in the application of principles  
5 repugnant to this Article. Furthermore,  
6 the Permanent Umpire shall defer to state  
7 procedures in those matters which are governed  
8 by the Law Enforcement Officers Bill of Rights,  
9 Article 27, Sections 727, et seq., Annotated  
10 Code of Maryland;

11 (6) To obtain any necessary support services and  
12 make necessary expenditures in the performance  
13 of duties to the extent provided for these  
14 purposes in the annual budget of Montgomery  
15 County; and

16 (7) To exercise any other powers and perform any other  
17 duties and functions as may be specified in  
18 Sections 33-79 and 33-82 of this Article.

19 (b) The Permanent Umpire shall be appointed by the  
20 County Executive, with the confirmation of the County Council,  
21 shall serve for a term of five (5) years and shall be  
22 eligible for reappointment. The Permanent Umpire shall be a  
23 person with experience as a neutral in the field of labor  
24 relations and shall not be a person who, on account of vocation,  
25 employment or affiliation can be classed as a representative  
26 of the interests of the employer or any employee organization.

27 (c) The Permanent Umpire shall be paid a per diem fee  
28 as set forth by contract with the County and shall be  
29 reimbursed for necessary expenses.  
30  
31

1           Sec. 33-78. EMPLOYEE RIGHTS.

2           (a) Employees shall have the right:

3               (1) To form, join, support, contribute to, or  
4               participate in, or to refrain from forming,  
5               joining, supporting, contributing to, or  
6               participating in, any employee organization  
7               or its lawful activities; and

8               (2) To be fairly represented by their certified  
9               representative, if any.

10           (b) The Employer shall have the duty to extend to the  
11           certified representative the exclusive right to represent  
12           the employees for the purposes of collective bargaining  
13           including the orderly processing and settlement of grievances  
14           as agreed by the parties.

15           (c) A certified representative shall serve as the  
16           bargaining agent for all employees and shall have the duty to  
17           represent fairly and without discrimination all unit employees  
18           without regard to whether the employees are or are  
19           not members of the employee organization or are paying dues  
20           or other contributions to it or participating in its affairs,  
21           provided, however, that it shall not be deemed a violation of  
22           this duty for a certified representative to seek enforcement  
23           of an agency shop provision in a valid collective bargaining  
24           agreement.

25           (d) The right of the certified representative to  
26           receive membership dues deductions or agency shop provisions  
27           shall be determined through negotiations, unless the  
28           authority to negotiate such provisions has been suspended  
29           under Section 33-84. No collective bargaining agreement  
30           may include a provision requiring membership in, participation  
31           in the affairs of or contributions to an employee organization  
32           other than an agency shop provision.

1           Sec. 33-79.   SELECTION, CERTIFICATION AND  
2                           DECERTIFICATION PROCEDURES.

3           (a) Procedures for determining the certified repre-  
4   sentative for the unit may be initiated in accordance with  
5   this subsection as follows:

6           (1) Any employee organization seeking certification  
7               as representative of the unit may file a  
8               petition stating its name, address, and its  
9               desire to be certified with the Permanent  
10              Umpire, and shall transmit forthwith a copy of  
11              such, not including the names of the supporting  
12              employees, to the employer. Said petition must  
13              contain the uncoerced signatures of thirty  
14              percent (30%) of the employees within the  
15              unit signifying their desire to be represented  
16              by the employee organization for purposes of  
17              collective bargaining.

18          (2) Where an employee organization has been certified,  
19               an employee within the unit may file a petition  
20               with the Permanent Umpire and shall transmit  
21               forthwith a copy of such to the employer and the  
22               certified representative, not including the names  
23               of the supporting employee for decertification  
24               of the certified representative. The petition  
25               must contain the uncoerced signatures of at least  
26               thirty percent (30%) of the employees within the  
27               unit alleging that the employee organization  
28               presently certified is no longer the choice of  
29               the majority of the employees in the unit.

30          (3) The employer may file a petition with the  
31               Permanent Umpire seeking an election for certi-  
32               fication of an employee organization or, where  
              an employee organization is so certified,

1 to cause decertification of the representative  
2 where the employer has reason to believe  
3 that the certified representative is not or is no  
4 longer the choice of the majority of the employees  
5 of the unit, and shall transmit a copy of such  
6 to the employee organization seeking to obtain  
7 or retain certification.

8 (4) Petitions may be filed between May 1, 1982, and  
9 June 30, 1982. Thereafter, petitions may be  
10 filed between September 1 and September 30, of  
11 any year, but no sooner than 22 months following  
12 an election held pursuant to this section.

13 (5) If a lawful collective bargaining agreement  
14 of no longer than three (3) years' duration is  
15 in effect, no petition shall be entertained  
16 unless filed during September of the final year  
17 of said agreement.

18 (6) If, during the period of May 1, to June 30, 1982,  
19 a petition is filed by the incumbent representa-  
20 tive of unit employees certified under the  
21 Employer/Employee Relations Article of this  
22 Chapter, and no other employee organization  
23 files a valid petition, that incumbent certified  
24 representative shall be certified without an  
25 election, provided it produces evidence,  
26 acceptable to the Permanent Umpire, of majority  
27 representation.

28 (b) If the Permanent Umpire determines that a petition is  
29 properly supported and timely filed, the Permanent Umpire shall  
30 cause an election of all eligible employees to be held within  
31 a reasonable time, but no later than October 20 of that year,  
32

1 to determine if and by whom the employees wish to be  
2 represented, as follows:

- 3 (1) All elections shall be conducted under the  
4 supervision of the Permanent Umpire and shall  
5 be conducted by secret ballot at such time and  
6 place as the Permanent Umpire may direct.  
7 The Permanent Umpire may select and retain  
8 services of an agency of the State of Maryland,  
9 or similarly neutral body to assist in  
10 conducting the election.
- 11 (2) The election ballots shall contain, as choices  
12 to be made by the voter, the names of the  
13 petitioning or certified employee organization,  
14 the name or names of any other employee  
15 organization showing written proof at least  
16 ten (10) days before the election of at least  
17 ten percent (10%) representation of the  
18 employees within the unit, and a choice that  
19 the employee does not desire to be represented  
20 by any of the named employee organization(s).
- 21 (3) The employer and each party to the election may  
22 be represented by observers selected in  
23 accordance with such limitations and conditions  
24 as the Permanent Umpire may prescribe.
- 25 (4) Observers may challenge for good cause the  
26 eligibility of any person to vote in the  
27 election. Challenged ballots shall be impounded  
28 pending either agreement of the parties as to  
29 the validity of such challenge or the Permanent  
30 Umpire's decision thereon, unless the number  
31 of challenges is not determinative, in which  
32 latter event the ballot(s) shall be destroyed.

1 (5) After the polls have been closed, the valid  
2 ballots cast shall be counted by the Permanent  
3 Umpire in the presence of the observers.

4 (6) The Permanent Umpire immediately shall prepare  
5 and serve upon the employer and each of the  
6 parties a report certifying the results of the  
7 election. If, and only if, an employee  
8 organization has received the votes of a majority  
9 of the employees who voted, the Permanent Umpire  
10 shall certify the employee organization so  
11 elected as the exclusive agent. If no employee  
12 organization has received the votes of a  
13 majority of the employees, the Permanent Umpire  
14 shall certify no representative. No run-off  
15 election shall be conducted.

16 (c) The aforesaid certification of results shall be  
17 final unless, within seven (7) days after service of the  
18 report and certification, the employer or any other party serves  
19 on all parties and files with the Permanent Umpire objections  
20 to the election. Objections shall be verified and shall contain  
21 a concise statement of facts constituting the grounds thereof.  
22 The Permanent Umpire shall investigate the objections and, if  
23 substantial factual issues exist, the Permanent Umpire shall  
24 hold a hearing thereon. Otherwise, the Permanent Umpire may  
25 determine the matter without hearing. The Permanent Umpire  
26 may invite, either by rule or by ad hoc invitation, written  
27 or oral argument to assist in determination of the merits of  
28 the objections. If the Permanent Umpire finds that the  
29 election was conducted in substantial conformity with this  
30 Article, the Permanent Umpire shall make final that certifica-  
31 tion initially issued. If the Permanent Umpire finds that the

1 election was not held in substantial conformity with this  
2 Article, the Permanent Umpire shall cause another election  
3 to be held pursuant to the provisions of this section.

4 (d) The cost of conducting an election shall be paid  
5 by the County.

6 (e) Voluntary recognition is prohibited under this  
7 Article, and no certification may be issued without an  
8 election except as provided for in subsection 33-79(a)(6).

9 Sec. 33-80. COLLECTIVE BARGAINING.

10 (a) Upon certification of an employee organization,  
11 as provided in Section 33-79, the employer and the said  
12 certified representative shall have the duty, through their  
13 designees, to bargain collectively with respect to those  
14 subjects as follows:

15 (1) Salary and wages, provided however that  
16 salaries and wages shall be uniform for all  
17 employees in the same classification.

18 (2) Pension and retirement benefits for active  
19 employees.

20 (3) Employee benefits such as, but not limited  
21 to, insurance, leave, holidays and vacation.

22 (4) Hours and working conditions.

23 (5) Provisions for the orderly processing and  
24 settlement of grievances concerning the  
25 interpretation and implementation of the  
26 collective bargaining agreement, which may  
27 include binding third party arbitration.

28 (b) The following subjects shall not be the subject  
29 of collective bargaining:

30 (1) Pensions or any other matter related to  
31 retired persons.



1 (2) Recruitment, selection, appointment, testing,  
2 promotion, position classification, or any  
3 other rule or action of the employer based  
4 on merit principles.

5 (3) Any matter which is the subject of state law  
6 including, but not limited to, the Law  
7 Enforcement Officers Bill of Rights, Article  
8 27, Sections 727, et seq., Annotated Code of  
9 Maryland.

10 (4) Any matter which would impair the rights of the  
11 employer as set forth in subsection 33-80(c).

12 (c) Employer Rights.

13 This Article and any agreement pursuant hereto shall  
14 not impair the right and responsibility of the employer:

- 15 (1) To determine the overall mission of the employer  
16 and any agency of County government;  
17 (2) To maintain and improve the efficiency of  
18 operations;  
19 (3) To determine the services to be rendered, the  
20 operations to be performed and the technology  
21 to be utilized;  
22 (4) To determine the overall methods, processes,  
23 means, job classifications or personnel by which  
24 operations are to be conducted and to prescribe  
25 and restrict the utilization of uniforms,  
26 vehicles, and equipment.  
27 (5) To direct or supervise employees;  
28 (6) To suspend, discipline or discharge employees;  
29 (7) To transfer, assign, schedule, retain, layoff,  
30 or recall employees;

1           (8) To relieve employees from duties because of  
2           lack of work or funds, or under conditions  
3           when the employer determines continued work  
4           would be inefficient or nonproductive;

5           (9) To make and enforce rules and regulations not  
6           inconsistent with a collective bargaining  
7           agreement;

8           (10) To take whatever other actions may be necessary  
9           to carry out the wishes of the public not  
10          otherwise specified herein or limited by a  
11          collective bargaining agreement; or

12          (11) To take actions to carry out the mission of  
13          government in situations of emergency.

14          (d) Nothing contained in this Article shall be construed  
15          to limit the discretion of the employer voluntarily to confer  
16          with any or all of its employees in the process of developing  
17          policies to effectuate or implement any of the enumerated  
18          rights set forth in subsection 33-80(c). above.

19          (e) Collective bargaining shall commence no later than  
20          November 1, preceding the beginning of a fiscal year for which  
21          there is no contract between the employer and the certified  
22          representative and shall be concluded on January 20. The  
23          resolution of an impasse in collective bargaining shall be  
24          completed by February 1. These time limits may be waived  
25          only by prior written consent of the parties.

26          (f) Any collective bargaining agreement which contains  
27          a provision for automatic renewal or extension shall be void  
28          in its entirety unless such renewal or extension requires  
29          the consent of both parties. No agreement shall be valid if  
30          it extends for less than one year or for more than three  
31          years. All agreements shall become effective July 1 and end  
32          on June 30.

1 (g) Any collective bargaining agreement shall  
2 become effective only after ratification of the agreement  
3 by the public employer and the employees in the bargaining  
4 unit, except as provided in subsection 33-81(b)(7).  
5 A certified representative may provide its own rules for  
6 ratification procedures, but such rules shall be consistent  
7 with the certified representative's duty of fair representation.  
8 Any terms of a collective bargaining agreement which purport  
9 to restrict the rights of management and of the public as  
10 contained in subsection 33-80(c) of this Article or which  
11 concern those subjects set forth in subsection 33-80(b)  
12 shall be null and void and wholly unenforceable.

13 (h) A ratified agreement shall be binding on the  
14 employer and the certified representative. Any term or  
15 condition thereof which requires an appropriation of funds or  
16 enactment, repeal or modification of a County law shall be  
17 timely submitted to the County Council by the employer  
18 and the employer shall make a good faith effort to have such  
19 term or condition implemented by Council action, but the  
20 agreement shall provide either for automatic reduction  
21 or elimination of such conditional benefits if the Council  
22 fails to take such action or if funds are not appropriated or  
23 if a lesser amount is appropriated.

24 Sec. 33-81. IMPASSE PROCEDURE.

25 (a) Prior to November 10 of any year in which the  
26 employer and a certified representative bargain collectively,  
27 they shall choose an Impasse Neutral either by agreement or  
28 through the processes of the American Arbitration Association.  
29 The Impasse Neutral shall be required to be available during  
30 the period from January 20 to February 1. Fees and expenses  
31 shall be shared equally by the employer and the certified  
32 representative.

1 (b) (1) During the course of collective bargaining  
2 either party may declare an impasse and  
3 request the services of the Impasse Neutral.  
4 If the parties have not reached agreement  
5 by January 20, an impasse shall be deemed to  
6 exist.

7 (2) Whenever an impasse has been reached, the  
8 dispute shall be submitted to the Impasse  
9 Neutral. The Impasse Neutral shall attempt  
10 mediation by bringing the parties together  
11 voluntarily under such favorable auspices as  
12 will tend to effectuate the settlement of the  
13 dispute.

14 (3) If the Impasse Neutral, in the Impasse Neutral's  
15 sole discretion, finds that the parties are at  
16 a bona fide impasse, the Impasse Neutral shall  
17 require each party to submit a final offer  
18 which shall consist either of a complete draft  
19 of a proposed collective bargaining agreement  
20 or a complete package proposal, as the Impasse  
21 Neutral shall choose. If only complete  
22 package proposals are required the Impasse  
23 Neutral shall require the parties to jointly  
24 submit a memorandum of all items previously  
25 agreed upon.

26 (4) The Impasse Neutral may, in the Impasse Neutral's  
27 discretion, require the parties to submit  
28 evidence or make oral or written argument in  
29 support of their proposals. The Impasse Neutral  
30 may hold a hearing for this purpose at a time,  
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1 date, and place selected by the Impasse  
2 Neutral. Said hearing shall not be open to  
3 the public.

4 (5) On February 1 or prior thereto, the Impasse  
5 Neutral shall select, as a whole, the most  
6 reasonable, in the Impasse Neutral's judgment,  
7 of the final offers submitted by the parties.  
8 The Impasse Neutral may take into account only  
9 the following factors:

- 10 a. Past collective bargaining contracts  
11 between the parties including the past  
12 bargaining history that led to such  
13 contracts, or the pre-collective  
14 bargaining history of employee wages, hours,  
15 benefits, and working conditions.
- 16 b. Comparison of wages, hours, benefits,  
17 and conditions of employment of similar  
18 employees of other public employers  
19 in Maryland.
- 20 c. Comparison of wages, hours, benefits,  
21 and conditions of employment of other  
22 employees of Montgomery County.
- 23 d. Wages, benefits, hours, and other  
24 working conditions of similar employees  
25 of private employers in Montgomery County.
- 26 e. The interest and welfare of the public.
- 27 f. The ability of the employer to finance  
28 economic adjustments and the effect of  
29 the adjustments upon the normal standard  
30 of public services by the employer.

1           (6) The Impasse Neutral shall not compromise or  
2           alter the final offer that he selects.  
3           Selection of an offer shall be based on the  
4           contents of that offer. No consideration shall  
5           be given to, nor shall any evidence or argument  
6           be received concerning the history of collective  
7           bargaining in this immediate dispute, including  
8           offers of settlement not contained in the offers  
9           submitted to the Impasse Neutral. However,  
10          the Impasse Neutral shall consider all previously  
11          agreed upon items integrated with the specific  
12          disputed items to determine the single most  
13          reasonable offer.

14          (7) The offer selected by the Impasse Neutral,  
15          integrated with the previous agreed upon items,  
16          shall be deemed to represent the final agreement  
17          between the employer and the certified repre-  
18          sentative, without the necessity of ratification  
19          by the parties, and shall have the force and  
20          effect of a contract voluntarily entered into  
21          and ratified as set forth in subsection 33-80(h).  
22          above. The parties shall execute such agreement.

23          Sec. 33-82. PROHIBITED PRACTICES.

24          (a) The employer or its agents or representatives  
25          are prohibited from:

26               (1) Interfering with, restraining, or coercing  
27               employees in the exercise of any rights granted  
28               to them under the provisions of this Article,  
29               provided that the discussion of any matter,  
30               argument, or opinion, or the dissemination  
31               thereof, whether orally, in writing or otherwise  
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1 shall not constitute or be evidence of  
2 prohibited practice under any of the provisions  
3 of this Article nor be grounds for invalidating  
4 any election conducted under this Article, if  
5 such discussion or dissemination contains no  
6 threat of reprisal or promise of benefit;

7 (2) Dominating or interfering with the formation or  
8 administration of any employee organization, or  
9 contributing financial or other support to it,  
10 pursuant to contract or otherwise; provided that  
11 the employer and a certified representative may  
12 agree to and apply a membership dues deduction  
13 provision;

14 (3) Encouraging or discouraging membership in any  
15 employee organization by discrimination in  
16 regard to hiring, tenure, or other wages, hours  
17 or conditions of employment;

18 (4) Discharging or discriminating against a public  
19 employee because he has filed charges, given  
20 testimony or otherwise lawfully aided in the  
21 administration of this Article;

22 (5) Refusing to bargain collectively with a certified  
23 representative;

24 (6) Refusing to reduce to writing or refusing to  
25 sign a bargaining agreement which has been  
26 agreed to in all respects;

27 (7) Refusing to process or arbitrate a grievance  
28 if required under a grievance procedure contained  
29 in a collective bargaining agreement;

1           (b) Employee organizations, their agents or  
2 representatives, and employees are prohibited from:

- 3           (1) Interfering with, restraining, or coercing  
4               the employer or employees in the exercise  
5               of any rights granted under this Article;
- 6           (2) Restraining, coercing, or interfering with  
7               the employer in the selection of its  
8               representatives for the purposes of collective  
9               bargaining or the adjustment of grievances;
- 10          (3) Refusing to bargain collectively with the  
11             employer if such employee organization is the  
12             certified representative;
- 13          (4) Refusing to reduce to writing or refusing to  
14             sign a bargaining agreement which has been  
15             agreed to in all respects;
- 16          (5) Hindering or preventing, by threats, intima-  
17             dation, force, or coercion of any kind the pursuit  
18             of any lawful work or employment by any person,  
19             public or private, or obstructing or interfer-  
20             ing with the entrance to or egress from any  
21             place of employment, or obstructing or  
22             interfering with the free and uninterrupted use  
23             of public roads, streets, highways, railways,  
24             airports, or other ways of travel or conveyance  
25             by any person, public or private;
- 26          (6) Hindering or preventing by threats, intimidation,  
27             force, coercion, or sabotage, the obtaining, use,  
28             or disposition of materials, supplies, equipment  
29             or services by the employer;
- 30          (7) Taking or retaining unauthorized possession of  
31             property of the employer, public or private, or



1 engaging in any effort to interfere with  
2 production, functions, or services of an  
3 employer, public or private, or refusing to  
4 do work or use certain goods or materials as  
5 lawfully required by the employer;

6 (8) Forcing or requiring any employer to assign  
7 particular work to employees in a particular  
8 employee organization or classification rather  
9 than to employees in another employee  
10 organization or classification;

11 (9) Causing or attempting to cause the employer  
12 to pay or deliver or agree to pay or deliver  
13 any money or other thing of value, in the  
14 nature of an exaction, for services which are  
15 neither performed, to be performed or which  
16 are not productive or not desired to be  
17 performed by the employer.

18 (c) A charge of prohibited practice may be filed by any  
19 employer, employee organization, or any individual employee.

20 All charges shall be supported by the charging party. The  
21 Permanent Umpire may request withdrawal of and, if necessary,  
22 summarily dismiss charges if they are insufficiently supported  
23 in fact or in law to warrant a hearing; however, the Permanent  
24 Umpire shall have authority to maintain such independent  
25 investigation as the Permanent Umpire determines necessary and  
26 to develop rules and regulations therefor. If the Permanent  
27 Umpire finds that a charge is sufficiently supported to raise  
28 an issue of fact or law, the Permanent Umpire shall hold a  
29 hearing on such charge upon notification to the parties.

30 In any hearing, charging parties shall present evidence in  
31 support of the charges and the parties charged shall have the

1 right to file an answer to the charges, to appear in person  
2 or otherwise and to present evidence in defense of the  
3 charges.

4 (d) If the Permanent Umpire determines that the person  
5 charged has committed a prohibited practice, the Permanent  
6 Umpire shall make findings of fact and conclusions of law  
7 and shall be empowered to issue an order requiring the person  
8 charged to cease and desist from the prohibited practice and  
9 to take such affirmative action as will remedy the violation(s)  
10 of this Article. Remedies of the Permanent Umpire may include,  
11 but shall not be limited to, orders withdrawing certification,  
12 withdrawing or suspending the employee organization's authority  
13 to negotiate or continue membership dues deductions, or  
14 agency shop benefits, withdrawing, suspending, or reinstating  
15 with or without back pay the employment or tenure of individual  
16 employees. If the Permanent Umpire finds that the party or  
17 parties charged have not committed any prohibited practices,  
18 the Permanent Umpire shall make findings of fact and conclusions  
19 of law and issue an order dismissing the charges.

20 (e) The Permanent Umpire shall not receive or entertain  
21 charges based upon an alleged prohibited practice occurring  
22 more than four (4) months prior to the filing of the charge.

23 Sec. 33-83. USE OF OFFICIAL TIME.

24 Solicitation of membership or dues payments, or other  
25 internal business of employee organizations shall be conducted  
26 during the non-duty hours of the employee involved. Employees  
27 who represent, or act on behalf of a certified representative,  
28 shall not be on paid working time when bargaining collectively  
29 with the public employer or when adjusting grievances.

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1           Sec. 33-84. STRIKES AND LOCKOUTS.

2           (a) No employee or employee organization shall  
3 either directly or indirectly cause, instigate, encourage,  
4 condone or engage in any strike, nor the employer in any  
5 lockout. No employee or employee organization shall obstruct,  
6 impede, or restrict either directly or indirectly, any  
7 attempt to terminate a strike.

8           (b) The employer shall not pay, reimburse, make whole,  
9 or otherwise compensate any employee for or during the period  
10 when said employee is directly or indirectly engaged in a  
11 strike, nor shall the employer thereafter compensate an  
12 employee who struck for wages or benefits lost during such  
13 strike.

14          (c) If an employee or employee organization shall  
15 violate the provisions of this section, the employer may take  
16 any and all of the following actions it deems necessary in  
17 the public interest:

18           (1) Imposition of disciplinary action, including  
19 termination of employment of employees engaged  
20 in such conduct;

21           (2) Termination of employee organization's dues  
22 deduction privilege, if any;

23           (3) Revocation of certification and disqualifica-  
24 tion from participation in representation  
25 elections for a period up to a maximum of two  
26 (2) years.

27          (d) Nothing contained herein shall prohibit an employer  
28 from seeking any remedy available in a court of competent  
29 jurisdiction.

1           Sec. 33-85. EFFECT OF PRIOR ENACTMENTS.

2           Nothing contained in this Article shall be construed  
3 to repeal any law, executive orders, legislation, rules or  
4 regulations adopted by the County and any department or  
5 agency thereof not inconsistent with the provisions of this  
6 Article.

7           Sec. 4. Severability.

8           The provisions of this Act are severable, and if any  
9 provision, sentence, clause, section, word or part thereof  
10 is held illegal, invalid or unconstitutional or inapplicable  
11 to any person or circumstances, such illegality, invalidity,  
12 unconstitutionality, or inapplicability shall not affect or  
13 impair any of the remaining provisions, sentences, clauses,  
14 sections, words or parts of the Act or their application to  
15 other persons or circumstances. It is hereby declared to be  
16 the legislative intent that this Act would have been adopted  
17 if such illegal, invalid or unconstitutional provision,  
18 sentence, clause, section, word or part had not been included  
19 therein, and if the person or circumstances to which the Act  
20 or any part thereof is inapplicable had been specifically  
21 exempted therefrom.

22           Sec. 5. Effective Date.

23           This Act shall take effect on the 91st day following  
24 the date on which it becomes law.

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